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Item No: 7.2

Application: 171646

Applicant: Southern Grove Hawkins Road Ltd

Agent: Mr Paul Manning

Proposal: Redevelopment of site to provide 224 student bedrooms (suit generic) in a building of part 6, part 7 and part 8 storeys, with study space (460sqm) and ancillary student uses comprising bin store, bike store, laundry, and reception/office at ground floor, 46 parking spaces, landscaping, substation, and linkages to river walkway.

Location: Aim Hire Site, Hawkins Road, Colchester

Ward: Greenstead

Officer: Bradly Heffer

Recommendation: Approval subject to design revisions and s.106 agreement

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee because it is a major development proposal to which objections have been received and which is recommended for approval contingent upon detailed design revisions and subject to prior completion of a s.106 agreement.
- 1.2 Furthermore, in the event that planning permission is granted for the application it would be necessary for a s106 legal agreement to be secured and Members' approval is required to allow the Council to enter into such an agreement.

2.0 Synopsis

- 2.1 The key issue for consideration is the proposed redevelopment of the application site in order to provide student accommodation, and its overall appropriateness in planning terms within this defined regeneration area. Members are advised that following the submission of the application, ongoing discussion has taken place with the applicant – particularly in relation to issues of scale and design. Revisions have been secured that have, for the most part, addressed officers' concerns. The originally submitted scheme proposed a development containing 231 bedrooms. This current scheme has been scaled down, reducing the proposed number of bedrooms to 224. Additionally, improvements have been made to the detailed design of the proposed development. Further improvements are considered necessary and officers have been in ongoing dialogue with the applicant regarding this issue. Approval is contingent upon securing these further revisions.
- 2.2 Having considered the proposal, the application is recommended for conditional approval, subject to completion of a s106 agreement as described in the report and securing the additional design improvements.

3.0 Site Description and Context

- 3.1 The site for this proposal is an irregularly-shaped area of brownfield land that has a wide frontage on to Colne Causeway and the river, extending through to an access off Hawkins Road. The main body of the site has an approximate triangular shape, with frontage onto the river and facing towards an elevated section of Colne Causeway, and behind an undeveloped, unkempt area of vegetation. It narrows to a linear area where it meets Hawkins Road.
- 3.2 The majority of the site is given over to generally worn hardstanding areas, with some instances of scrub vegetation. Hard boundaries are located between the site, the adjacent residential area to the north-west and the commercial site to the east. The site is located within the historic, now defunct Hythe Port. In the adopted Local Plan the site forms part of an area defined as predominantly residential. It is also located in an East Colchester Special Policy Area (Area 4 – Hawkins Road).

- 3.3 Immediately to the northwest of the application site is predominantly residential development – also located on a former commercial site. To the east is an established builders’ merchant. The access to the site faces commercial development on the opposite side of Hawkins Road. To the south of the application site, on the opposite side of Colne Causeway, is a significant, stand-alone development, known as The Maltings, which also contains student accommodation.

4.0 Description of the Proposal

- 4.1 The submitted planning application seeks to create a new residential development to specifically serve students attending courses at the University of Essex.

- 4.2 The following description of the development is taken from the planning statement that accompanies the application submission:

‘The development will provide 224 student rooms in a part five, part six, part seven and part eight storey building. The proposed building is a ‘T’ shape located at the southern end of the site...Uses ancillary to student accommodation are provided at ground floor level...The existing vehicular access from Hawkins Road is to be retained leading through to a loop road that can be used for access and servicing to the building. Forty six parking spaces are provided on site including five disabled parking bays...Seventy seven cycle parking spaces are to be provided at ground floor level...A pedestrian link is proposed to connect in to the walkway that runs along the eastern side of the River Colne. In terms of amenity space a terrace is provided at fifth floor level (135 sq m) as well as large landscaped areas to the north and south of the proposed building...’

- 4.3 Members are advised that the ancillary uses proposed at ground floor level include a commercial study space, social space, facilities management office, laundry and cycle store. The student accommodation proposed comprises the following:

- 128 en suite rooms
- 56 studio rooms
- 19 premium studio rooms
- 21 accessible rooms

- 4.4 The Design and Access Statement that accompanies the application submission states that the main range of buildings would be constructed in brick, linked by a polycarbonate wall system. The rear-projecting block would be clad in metal panels.

5.0 Land Use Allocation

- 5.1 The site for this proposal is located in a predominantly residential area as allocated in the Local Development Framework Proposals Maps. It also falls within a flood zone (zone 3) and an East Colchester Special Policy Area (no. 4).

6.0 Relevant Planning History

- 6.1 The following, previous planning applications are relevant to the consideration of this planning application:

081852 – Erection of 63 residential units and 823 sq.m commercial floorspace with associated car parking and provision of river walkway connecting with Colne Causeway.
Conditional planning permission granted 3rd February 2010.

130129 – application for a new planning permission to replace extant planning permission 081852 in order to extend the time limit for implementation for erection of 63 residential units and 823 sq.m commercial floorspace with associated car park and provision of river walkway connecting with Colne Causeway.

7.0 Principal Policies

- 7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.
- 7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations
SD2 - Delivering Facilities and Infrastructure
SD3 - Community Facilities
CE1 - Centres and Employment Classification and Hierarchy
CE2a - Town Centre
H1 - Housing Delivery
H2 - Housing Density
H3 - Housing Diversity
UR1 - Regeneration Areas
UR2 - Built Design and Character
PR1 - Open Space
PR2 - People-friendly Streets
TA1 - Accessibility and Changing Travel Behaviour
TA2 - Walking and Cycling

TA4 - Roads and Traffic

TA5 - Parking

- 7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

DP1 Design and Amenity

DP2 Health Assessments

DP3 Planning Obligations and the Community Infrastructure Levy

DP12 Dwelling Standards

DP16 Private Amenity Space and Open Space Provision for New Residential Development

DP17 Accessibility and Access

DP19 Parking Standards

DP20 Flood Risk and Management of Surface Water Drainage

DP25 Renewable Energy

- 7.4 Some “allocated sites” also have specific policies applicable to them. The adopted Site Allocations (adopted 2010) policies set out below should also be taken into account in the decision making process:

SA H1 Housing Allocations

SA EC1 Residential development in East Colchester

SA EC2 Development in East Colchester

SA EC6 Area 4: Hawkins Road

SA EC8 Transportation in East Colchester

- 7.5 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

The Essex Design Guide

External Materials in New Developments

EPOA Vehicle Parking Standards

Open Space, Sport and Recreation

Sustainable Construction

Cycling Delivery Strategy

Urban Place Supplement

Sustainable Drainage Systems Design Guide

Street Services Delivery Strategy

Planning for Broadband 2016

Managing Archaeology in Development.

Developing a Landscape for the Future

ECC's Development & Public Rights of Way

Planning Out Crime

Colne Harbour Masterplan

Air Quality Management Guidance Note, Areas & Order

8.0 Consultations

8.1 The **Highway Authority** has advised that it has no objection to the proposal subject to the imposition of conditions on a grant of planning permission. Amongst other things, these include a requirement for the applicant to provide a minimum 4 metre wide riverside footpath/cycleway between the adjacent former Ballantyne Centre site and the Colne Causeway toucan crossing.

8.2 The Council's **Spatial Policy Officer** has commented as follows:

'The site lies within an area currently designated in the adopted Local Plan as an East Colchester Regeneration area, specifically Area 4: Hawkins Road which is covered by Policy SA EC5. The policy provides that to the west of Hawkins Road, which includes the proposal site, 'housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals.'

It is noted that while there are some potential flood risks related to the site, the general principle of residential use of the site was previously accepted as part of the Site Allocations DPD approval process. The FRA submitted with the site concludes that risks and impacts can be managed to an appropriate level.

Policy EC2 in the Publication Draft Local Plan, although of limited weight given that the plan is yet to be submitted, establishes that the Council continues to support the regeneration of the area for mixed uses. The site lies within the East Colchester/Hythe Special Policy area. In particular the policy highlights the potential benefits of the location adjacent to the University.

The current scheme provides amendments to the similar scheme previously submitted as application 170251. Planning Policy responded to that application, noting that 'the proposal presents an opportunity to regenerate brownfield land in a sustainable location whilst contributing to the Borough's supply of new housing. To be in accordance with adopted policy the proposal must make provision for improvements to the public realm along the riverside to improve its function as an attractive and sustainable transport link.'

Changes to the new scheme include a reduction in the scale of development along with design changes. The current proposal is not considered to raise any new issues of principle. It is recommended, however, that a condition(s) should be applied to restrict occupation to students given that the layout and space standards of the scheme would not be appropriate for general housing. '

8.3 **Natural England** has advised it has no comment to make on the application. In addition, attention is drawn to its standing advice on assessing impacts of development on protected species.

8.4 The **Contaminated Land Officer** has commented as follows:

‘Since the hardstanding covering the majority of the site has yet to be removed, there is the potential for further, as yet unidentified, sources of contamination to be exposed. It is recommended that the Environment Agency should be consulted with respect to potential risks to controlled waters, given the proximity to the river Colne, tidal influence and depth to groundwater and as a piled foundation solution is proposed (care must be taken to ensure no new contamination pathways are created).

Environmental Protection will expect to see a minimum provision of 450mm clean cover soils in soft landscaped areas (or deeper dependent upon the nature of any planting): not the 300mm suggested. We will expect to see the verification reporting include confirmation that potable water supplies have been installed to the satisfaction of the service provider. It is noted that there is a pile of asbestos sheeting near south eastern boundary. It is assumed that this material will be safely removed and disposed of as soon as possible and in accordance with the applicant’s responsibilities under the Control of Asbestos Regulations 2012. In the meantime, it is essential to ensure that this material is being appropriately and safely stored. It will be necessary for the applicant to submit a separate, stand-alone Remediation Method Statement for approval, sufficient to ensure that the site can be made suitable for use and taking into account all of the above, together with any comments from the Environment Agency.

However, based on the information provided, the identified contamination would not preclude the proposed development if appropriately mitigated: it is suggested that these remaining matters could be dealt with by way of relevant conditions. Consequently, should permission be granted for this application, Environmental Protection recommend inclusion of...conditions [on a grant of planning permission]’

8.5 **Environmental Protection** has no objection to the proposal subject to the imposition of conditions on a grant of planning permission. The following specific comment is made in relation to the issue of air quality:

*‘Environmental Protection has not required an Air Quality Impact assessment at this time as it has been presumed the application is for Students at the university and therefore there is a strong link between Hawkins Road and the University rather than a significant impact on Air Quality Management areas which are **Area 1** – High Street Colchester, Head Street, North Hill, Queen Street, St. Botolph’s Street, St. Botolph’s Circus, Osborne Street, Magdalen Street, Military Road, Mersea Road, Brook Street, East Street and St. Johns Street and **Area 2** – East Street and Ipswich Road.’*

8.6 The **Landscape Planning Officer** has commented on proposed revisions to the landscape treatment of the site and has also recommended the imposition of a condition requiring the submission of a detailed landscaping scheme.

8.7 The **Archaeological Officer** states that:

'This proposal is located in an area of archaeological interest, defined in the Colchester Historic Environment Record, within the area of Hythe quayside. There is high potential for encountering the archaeological remains of the historic wharf at this location. There is also potential for encountering palaeo-environmental remains (waterlogged archaeological deposits). Groundworks relating to the proposed development would cause significant ground disturbance that has potential to damage any archaeological deposits that exist. There are no grounds to consider refusal of permission in order to achieve preservation in situ of any important heritage assets. In accordance with the National Planning Policy Framework (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.'

8.8 **Essex County Council SuDS** authority's final views were not available at the time this report was drafted. Any comments received will be reported at the Committee meeting.

8.9 The **Environment Agency's** final views were not available at the time this report was drafted. Any comments received will be reported at the Committee meeting.

9.0 Parish Council Response

9.1 Not applicable – the site is located in the town ward of Greenstead.

10.0 Representations from Notified Parties

10.1 As a result of local notification and advertisement, three objections to the proposal have been received. The comments made can be summarised as follows:

- The area is already blighted by noise nuisance at night and this proposal will make matters worse.

Officer comment: the behaviour of future occupiers of the development is not a matter for planning control. That said, the development will incorporate on site facilities management.

- The existing road conditions are dangerous

Officer comment: the infrastructure to serve the development has not been identified as unsafe by the highway authority.

- The proposal will unacceptably obscure the skyline

Officer comment: the overall size and impact of the development is not considered excessive in the context of the surrounding form of development. Further, as Members are aware, in planning terms there is no right to a view across private land.

- Parking space is at a premium in the vicinity

Officer comment: it is noted that a significant amount of on-road car parking takes place along parts of Hawkins Road. This has decreased over time as vision splays to serve the accesses of redeveloped sites are protected by parking restrictions in the highway. In the case of this proposal a similar restriction would be in place to discourage on-road parking. As explained in the relevant sections of this report, the development would incorporate its own parking provision.

- Existing problems with rubbish will be exacerbated

Officer comment: the proposed development includes refuse bin storage facilities and refuse collection would take place on site via the access off Hawkins Road. With regard to litter, this point is acknowledged. However, the submitted application is for a student residential facility that does not propose hot food takeaway facilities etc.

- There is no need for further student accommodation

Officer comment: it falls for the submitted application to be determined on its merits. The fact that the development would be occupied by students is not considered to be a contentious issue per se – particularly in the light of the comments made by the Spatial Policy team.

10.2 The following comment has been received from Colchester Cycling Campaign:

'We request the involvement of Essex County Council's cycling officer to identify how to improve the cycling route to the university (this could involve changes to the bridge beside the Sainsbury site); we note Peter Kay's comment about bus coverage not being as good as the applicant believes it is. We request appropriate s106/CIL funding to pay for changes. We request a cycling /pedestrian access (modes segregated from each other) on to both Colne Causeway and Hawkins Road, to be treated as a driveway with bollards not barriers. We request that the developer surrenders to the highway authority 2m of curtilage on both Colne Causeway and Hawkins Road to facilitate future improvements to adjacent cycle routes. We request that CBC keeps a watch during building work to minimise contractors' need for car parking (London schemes provide good examples of this) and to ensure pedestrian and cyclist safety and free passage while work is in progress; at no time should there be any motor vehicles parked in full or partly on the footway.'

10.3 A representation has also been received on behalf of C-Bus. In summary, it is stated that the transport report submitted with the application contains major errors in relation to bus transport, for example in terms of location of bus stops. It is noted that the application is poorly served by accessible stops and it is suggested that nearer stop facilities should be provided.

11.0 Parking Provision

- 11.1 Members are advised that there is no specific parking standard applicable to off-campus student accommodation. However, a development nearby at King Edward Quay (also for predominantly student accommodation) utilised an agreed standard of 1 space per 5 bedrooms. This standard derives from that applied to residential educational establishments (further/higher education) falling within a C2 Residential Institutions use class. The scheme submitted for Members' consideration proposes a total of 224 bedrooms, this would require that 45 spaces are provided on site in order to meet this certain ratio. The submitted scheme proposes 46 spaces.

12.0 Open Space Provisions

- 12.1 Policy DP16 of the Adopted Development Policies document of the LDF requires that residential development will be expected to provide publically-accessible areas of open space and as a guideline at least 10% of the gross site area should be utilised for this purpose. However, Members are advised that there is no specific policy standard that relates to the provision of public open space as part of a student accommodation development. That said, the s106 agreement that would be attached to a grant of planning permission would include a contribution of £90 000 towards improvements etc. to open space provision within the area/ward.

13.0 Air Quality

- 13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Planning Obligations

- 14.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. It was considered that Planning Obligations should be sought. The Obligations that should be agreed as part of any planning permission would be:

- £85 000 contribution to a footbridge over the River Colne
- £90 000 contribution towards open space improvements
- £80 000 contribution towards a bespoke student travel plan (this figure would include a £56 000 contribution for the provision of new bus stops located nearer the site to encourage an alternative travel mode)
- £60 000 contribution towards the securitisation and signing of the walking route to the University, together with the resurfacing, lighting and security of the nearest pedestrian route (located adjacent to the old Custom House).
- £35 328 contribution to mitigate the impact of the development on primary healthcare delivery in the area (as identified by the NHS)

14.2 The legal agreement would also include a clause that required the part of the river wall that is adjacent to the application site to be surveyed and, if necessary, repaired as part of the overall works to create the extension to the riverside footway and cycleway. Members are advised that similar clauses have been included in agreements relating to residential redevelopment sites elsewhere along the river.

15.0 Report

15.1 The main issues in this case are:

- The Principle of Development
- Design and Layout
- Scale, Height and Massing
- Impact on the Surrounding Area
- Impacts on Neighbouring Properties
- Amenity Provisions
- Landscape and Trees
- Highway Safety and Parking Provisions (including Cycling)
- Public Open Space Provision
- Private Amenity Space Provision
- Parking Provision
- Other Matters

The Principle of Development

15.2 As noted elsewhere in this report, the site for this proposal is located within an area allocated for predominantly residential development in the adopted Local Plan. Therefore it is considered that the principle of a residential development – albeit for a specific occupier - taking place on the site is acceptable.

15.3 In consideration of the principle of this scheme, it is important to note that one of the core planning principles contained in the NPPF encourages ‘...the effective use of land by reusing land that has previously been developed (brownfield land), provided that it is not of high environmental value...’ It is considered that the application site matches this requirement, having been previously used for a commercial plant hire operation, and having been empty and unused for a significant period of time.

15.4 Following on from this point, the land does fall within a defined regeneration area within Colchester. The Council’s Core Strategy document recognises this part of the town as a sustainable development location and Members will be aware that the Strategy identifies East Colchester as an area where new development opportunities exist. Specifically, the Adopted Site Allocations document includes Policy SA EC6 Area 4: Hawkins Road which states:

‘To the west of Hawkins Road housing areas will be extended and consolidated and other small-scale uses will be encouraged provided they are compatible with the overall housing and regeneration proposals. New development on the eastern side of Hawkins Road shall continue the existing mix of commercial and

industrial uses, and encouragement will also be given to office based employment and business incubation space. Proposals must not adversely affect the amenity of neighbouring housing areas. New development should incorporate public realm enhancements focused on providing improved pedestrian and cycle routes.'

- 15.5 Members will note that the Spatial Policy comment identifies the acceptability of the proposed use, notwithstanding that the residential use proposed does not fall within a C3 category in the Use Classes Order. Members will also note the Team's comment also identifies that a restrictive occupancy condition should be in place in recognition of the link between the proposed development and the University of Essex and the specialist nature of the accommodation proposed. An occupancy restriction is also in place at the nearby student development known as The Maltings at King Edward Quay.

Design and Layout

- 15.6 The general design approach taken with regard to this application takes a contemporary approach. Members will be aware that the surrounding area contains buildings in a variety of architectural styles. In the vicinity of the application site the residential development is predominantly flatted, and buildings are ranged so that the higher elements are positioned closest to the river frontage.
- 15.7 Whilst the design of the development now proposed does not seek to replicate the form of adjacent buildings they do follow particular principles in relation to vertical emphasis, use of traditional materials, ground floor 'active' frontages facing on to public space etc. Generally the form of the buildings creates a frontage on to the river (thereby creating enclosure of space).
- 15.8 Members are advised that ongoing discussions have taken place with the applicant regarding the overall design of the proposed buildings. These have centred on reducing the scale/monumentality of the built form and also improving the detailed design. It is fair to say that the scheme that is presented to Members has progressed significantly from the original submission. Nevertheless, further detailed design improvements are considered necessary, in order to ensure that an overall visually satisfactory appearance is achieved – particularly given the prominence that this development would have in the street scene and wider townscape of the river frontage. To this end, the suggested recommendation for approval is contingent upon receipt of amended drawings that work-up the detailed design further to enhance the detailed design quality.
- 15.9 Servicing of the site would take place off Hawkins Road, leading to a combined parking and amenity space that is also proposed to be landscaped. Importantly, the submitted scheme also includes the provision of a footpath and cycleway across the frontage of the site that would extend to the Colne Causeway.

Scale, Height and Massing

- 15.10 The adopted Colne Harbour Masterplan identifies that:

‘...Generally, buildings should increase in height towards places of special importance, such as the neighbourhood centres, urban squares and the river. The occasional building that is very much taller than its neighbours can be of benefit to urban character where they act as a (sic) landmarks and are appropriate their context...’

- 15.11 The buildings proposed under this application are of similar height to the adjacent development. The apartments immediately adjacent (to the northwest) of the application site achieve eight storeys at their highest point. The previously approved residential (C3) scheme on this application site proposed a building that achieved 7 storeys across its width. This application submission proposes six storey elements nearest the existing residential development. The tallest central element is eight storeys, while the element nearest to the commercial development reduces to 7 storeys. In the context of the surroundings it is considered that the overall height of the proposed development is in keeping and would not appear incongruous or overbearing.

- 15.12 In terms of massing, the established development on this side of the river adopts a design approach where the accommodation is broken into individual elements – in order to avoid an unrelieved mass of built form. The same approach is taken in relation to this current proposal. The fact that individual elements of the scheme incorporate differing elevational treatments would further assist in breaking down the overall visual mass of the development.

Impact on the surrounding area

- 15.13 Given the context of the redevelopment that has taken place in the area generally, and along the same side of the river in particular, it is considered that the overall impact of the proposed development would not be harmful to visual amenity in this location. Indeed, the proposal would also have the benefit of securing further redevelopment within this defined regeneration area.

Impacts on neighbouring properties

- 15.14 The organisation of the accommodation within the proposed development, and the arrangement of windows, would mean that the nearest flank of the proposed building that faced northwest towards the adjacent residential buildings would not contain any window openings. Therefore, it is considered that the proposed development would not create unacceptable intervisibility between windows, thereby maintaining current levels of privacy in this particular location. Where windows in the new development would face directly towards the existing residential development they are considered to be sufficiently remote to avoid unacceptable loss of privacy.

- 15.15 The planning application submission includes a document that considers the impact of the development in terms of daylight and overshadowing of neighbouring properties. The conclusions of the document are included below for Members information:

‘...Our analysis demonstrates that the scheme has been designed sensitively to respect the surrounding context, which is exemplified in high compliance rates with the vast majority of neighbours retaining values which fully comply with the BRE targets. Where minor deviations to individual windows occur these are the secondary fenestration to rooms lit by other windows such that there will be no material change in the overall amenity enjoyed by neighbours...Overall the development minimises the effect on neighbouring properties and provides excellent internal amenity within the accommodation. The proposal is therefore considered to be entirely consistent with the BRE guidance and relevant planning policy in terms of daylight and sunlight.’

Amenity provisions

- 15.16 It is a policy requirement of the adopted Local Plan that new developments adjacent to the river should include the provision of access along the riverside. Policy SA EC2 Development in East Colchester inter alia states that:

‘Development within the East Colchester Regeneration and Growth Area will be permitted provided it complies with all the relevant key criteria, as set out below:

...3. Development of sites fronting the river will be expected to include uses which attract a significant number of people including visitors, residents or workers. Public access to the riverside should be provided so as to create a continuous riverside walkway and cycleway...’

- 15.17 The application submission does include proposed access to the existing pathway that currently links Colne Causeway with the river frontage. Furthermore, the Highway Authority has requested, as part of its recommended conditions, that a minimum 4 m wide footway/cycleway be provided that extends across the site frontage – linking to the toucan crossing on Colne Causeway.

Landscape and trees

- 15.18 Currently the application site is practically devoid of vegetation, and the redevelopment presents an opportunity to introduce some new landscaped areas, augmented by tree planting, into the area. The introduction of these features would also assist in improving visual amenity. Members are advised that since the initial submission of the scheme, the treatment of the spaces to the front and the rear of the proposed building has been revised in order to improve their accessibility. Although the application site sits at a slightly lower level than the adjacent footway and cycleway, new hard links would be provided between the two spaces to encourage permeability. It is

proposed to include a condition whereby the final details of hard and soft landscape treatments are agreed with the Council.

Highway safety and parking provisions (including cycling)

- 15.19 The highway authority does not object to the proposal as submitted, subject to the imposition of conditions. Members are advised that where redevelopment schemes have taken place elsewhere along this side of Hawkins Road, a requirement of the highway authority was that a visibility splay should be achieved at the access. A similar conditional requirement would be added to a planning permission for this proposed development. Double yellow lines are already in the carriageway, which would assist in keeping the visibility splay clear. Additionally, as noted elsewhere in this report, the highway authority would require the provision of the footway/cycleway route across the site frontage – extending to the existing crossing along Colne Causeway.
- 15.20 With regard to the provision of parking, in the case of cars a standard agreed for student accommodation in this location i.e. 1 space per 5 occupiers has been met (infact exceeded by one space). Anecdotally, the identical provision as utilised at The Maltings student development at King Edward Quay has not resulted in students' cars being parked in the adjacent highways.
- 15.21 In relation to the provision of cycle parking the submitted scheme proposes a total of 77 spaces – this provision accords with the requirements for cycle parking in relation to residential educational establishments. These spaces would be contained in a secure area forming part of the ground floor of the development.

Private amenity space provision

- 15.22 As is the case with public open space provision, there is no policy requirement for the provision of private amenity space to serve student accommodation as such. Nevertheless it is proposed as part of this development that the site is served by amenity spaces at ground level and also at roof level of the rear element of the built form. This has an area of 135 sq m. Members are advised that this space would be managed during the day and closed at night.

Other matters

- 15.23 With regard to sustainable development principles, the development submitted for consideration includes solar panels and air source heat pumps for energy generation. The Energy Statement that accompanies the application advises as follows:

‘This Energy Statement identifies how the proposed development will address the energy and CO² emission reduction policies ER1: Energy, Resources, Waste, Water and Recycling and DP25: Renewable Energy. In line with these policies, the development must ensure that...a 15% energy

reduction by on-site renewable technologies is achieved. Space heating will be provided by electric radiators, air source heat pumps and Solar Thermal technologies implemented to achieve the required carbon emission reduction and energy reduction required by the policies identified previously...The statement follows the Colchester Borough Council Energy Hierarchy and exceeds the 15% energy reduction by renewable technologies, by using the measures identified...achieving a 30.20% energy reduction by the use of on-site renewable technologies...'

15.24 Members are also advised that (although not strictly a planning matter) the development would incorporate sprinkler system. Additionally the buildings would incorporate 4 staircases.

15.25 In terms of ecology impacts the applicant commissioned a study that has determined that no statutory or non-statutory protected wildlife sites will be affected by the proposals. The study also recommends particular species are incorporated into landscaping schemes and planting to encourage wildlife, together with the provision of bird and bat boxes. It is considered that these elements could be secured through the landscaping scheme to be approved via condition.

16.0 Conclusion

16.1 To summarise, the proposal submitted for consideration to Committee represents a significant opportunity to secure further regeneration within the former port area of the town. It is considered that the development generally responds positively to the area context, and follows the principles of redevelopment established elsewhere along this side of the river.

16.2 Since the initial submission of the application discussions have taken place in order to improve the overall appearance of the built form and the scheme presented to Members is considered now be of an appropriate standard in terms of size, scale and the organisation of architectural forms. Nevertheless, further work is required to lift the detailed elevational treatment further, hence the recommendation for approval is contingent upon the receipt of further revised drawings to demonstrate this requisite uplift in detailed design quality.

17.0 Recommendation to the Committee

17.1 The Officer recommendation to the Committee is that the application be deferred and that:

Subject to the satisfactory completion of a s106 agreement to achieve the contributions set-out in paragraphs 14.1 & 14.2 of the report above; then,

The Assistant Director of Policy & Corporate be authorised to grant planning permission subject to further amended drawings first being submitted by the applicant which satisfy the Assistant Director that the elevational treatment has by then achieved the quality being sought as described in the report and subject to the conditions set out below. Members should note that some of the drawing numbers that are listed in condition 2 below will be varied as a result of further design revisions.

- 17.2 In the event that the Assistant Director of Policy & Corporate is not satisfied with the amendments to the elevational treatment then the application must be referred back to the Planning Committee for a decision.
- 17.3 In the event that the legal agreement is not signed within 6 months, to delegate authority to the Head of Service to refuse the application, or otherwise to be authorised to complete the agreement. The Permission will also be subject to the following conditions:

1. ZAA - Time Limit for Full Permissions

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. ZAX - *Development to Accord With Approved Plans (qualified)*

With the exception of any provisions within the following conditions, the development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers as follows:

- Site Location Plan – 3448_0001 – P1
- Site Ownership Plan – 3448_0002 – P1
- Proposed Site Plan – 3448_0003 – P1
- Proposed Ground Floor Plan – 3448_0004 – P1
- Proposed Typical Floor Plan – 3448_0005 – P1
- Proposed Ground Floor Plan – 3448_0150 – P1
- Proposed First-Fourth Plan – 3448_0151 – P1
- Proposed Fifth Floor Plan – 3448_0152 – P1
- Proposed Sixth Floor Plan – 3448_0153 – P2
- Proposed Roof Level plan – 3448_0154 – P2
- Proposed Seventh Floor Plan – 3448_0155 – P1
- Proposed South Elevation – 3448_3000 – P2
- Proposed East Elevation – 3448_3001 – P2
- Proposed North Elevation – 3448_3002 – P2
- Proposed West Elevation – 3448_3003 – P2
- Proposed Colne Causeway Elevation – 3448_3004 – P2
- Proposed East West Section – 3448_3500 – P2
- Proposed North West Section – 3448_3501 – P1
- Landscape GA – 900 – P7
- Softworks GA – 902 – P3
- Landscape Masterplan – 901 – P3

- Key Sections – 903 – P2
- Tree Retention and Removal Drawing – 904 – P2

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

3. ZBC - Materials To Be Agreed

No external facing or roofing materials shall be used in the construction of the development hereby permitted until precise details of the manufacturer, types and colours of these have been submitted to and approved, in writing, by the Local Planning Authority. Such materials as may be approved shall be those used in the development.

Reason: In order to ensure that suitable materials are used on the development as there are insufficient details within the submitted planning application.

4. ZBF - Surfacing Materials to be Agreed

Prior to the laying down of any surface materials for private, non-adoptable access-ways, driveways, footpaths, courtyards, parking areas and forecourts, full details of these materials shall be submitted to and agreed, in writing, by the Local Planning Authority. The development shall thereafter be carried out in accordance with the agreed details.

Reason: There is insufficient information within the submitted application to ensure that these details are satisfactory in relation to their context and such details are considered important to the character of the area.

5. ZCF - Refuse and Recycling As Shown

Prior to the first occupation of the development, the refuse and recycling storage facilities as shown on the approved plans shall have been provided and made available to serve the development. Such facilities shall thereafter be retained to the satisfaction of the Local Planning Authority at all times.

Reason: To ensure that adequate facilities are provided for refuse and recycling storage and collection.

6. ZCI - Connection to Foul Sewer

All sewage and waste water shall be discharged to the foul sewer.

Reason: To meet the requirements of Circular 3/99 and to ensure that the environmental, amenity and public health problems that can arise from non-mains sewerage systems do not occur.

7. Non-standard condition – Occupancy restriction

The residential accommodation hereby approved shall only be occupied by students attending educational courses at the University of Essex during term times or persons attending courses, seminars or events at the University campus outside of term times, and for no other purpose.

Reason: The development has been approved on the basis of the link between its use and the nearby University of Essex campus. The Council has considered the proposal on this basis and wishes to control the occupancy of the residential units in order to avoid any doubt that the building may not be utilised for general (C3) occupancy.

8. ZFB - *Full Landscape Proposals TBA*

No works shall take place until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- PROPOSED FINISHED LEVELS OR CONTOURS;
- MEANS OF ENCLOSURE;
- CAR PARKING LAYOUTS;
- OTHER VEHICLE AND PEDESTRIAN ACCESS AND CIRCULATION AREAS;
- HARD SURFACING MATERIALS;
- MINOR ARTEFACTS AND STRUCTURES (E.G. FURNITURE, PLAY EQUIPMENT, REFUSE OR OTHER STORAGE UNITS, SIGNS, LIGHTING ETC.);
- PROPOSED AND EXISTING FUNCTIONAL SERVICES ABOVE AND BELOW GROUND (E.G. DRAINAGE POWER, COMMUNICATIONS CABLES, PIPELINES ETC. INDICATING LINES, MANHOLES, SUPPORTS ETC.);
- RETAINED HISTORIC LANDSCAPE FEATURES;
- PROPOSALS FOR RESTORATION;
- PLANTING PLANS;
- WRITTEN SPECIFICATIONS (INCLUDING CULTIVATION AND OTHER OPERATIONS ASSOCIATED WITH PLANT AND GRASS ESTABLISHMENT);
- SCHEDULES OF PLANTS, NOTING SPECIES, PLANT SIZES AND PROPOSED NUMBERS/DENSITIES WHERE APPROPRIATE; AND
- IMPLEMENTATION TIMETABLES AND MONITORING PROGRAMS.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

9. – Non-standard condition – Landscape Management Plan

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

10. ZPA – Construction Method Statement

No works shall take place, including any demolition, until a Construction Method Statement has been submitted to and approved, in writing, by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period and shall provide details for:

- the parking of vehicles of site operatives and visitors;
- hours of deliveries and hours of work;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction; and
- a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: In order to ensure that the construction takes place in a suitable manner and to ensure that amenities of existing residents are protected as far as reasonable.

11.ZGB - *Restricted Hours of Delivery*

No deliveries shall be received at, or despatched from, the site outside of the following times:

Weekdays: 08.00 to 20.00

Saturdays: 08.00 to 20.00

Sundays and Public Holidays: 10.00 to 16.00

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from delivery vehicles entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

12.ZGF - Self-Closing Doors

Prior to the first use or occupation of the development hereby permitted, all doors allowing access and egress to the premises shall be self-closing and shall be maintained as such, and kept free from obstruction, at all times thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the area and/or nearby residents by reason of undue noise including from people entering or leaving the site, as there is insufficient information within the submitted application, and for the avoidance of doubt as to the scope of this permission.

13.ZGG - Site Boundary Noise Levels

Prior to the first use or occupation of the development as hereby permitted, a competent person shall have ensured that the rating level of noise emitted from the site's plant, equipment and machinery shall not exceed 0dB(A) above the background levels determined at all facades of the proposed and adjacent noise-sensitive premises. The assessment shall have been made in accordance with the current version of British Standard 4142 and confirmation of the findings of the assessment shall have been submitted to, and agreed in writing by, the Local Planning Authority and shall be adhered to thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

14.ZGI - Sound Insulation on Any Building

Prior to the first use or occupation of the development as hereby permitted, the building shall have been constructed or modified to provide sound insulation against internally generated noise in accordance with a scheme devised by a competent person and agreed, in writing, by the Local Planning Authority. The insulation shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the surrounding area by reason of undue noise emission and/or unacceptable disturbance, as there is insufficient information within the submitted application.

15.ZGK - *External Noise*

Prior to the commencement of development, a noise survey for proposed residential properties that are in the vicinity of the Colne Causeway shall have been submitted to and approved, in writing, by the Local Planning Authority. The survey shall have been undertaken by a competent person, shall include periods for daytime as 0700-2300 hours and night-time as 2300-0700 hours, and identify appropriate noise mitigation measures. All residential units shall thereafter be designed so as not to exceed the noise criteria based on current figures by the World Health Authority Community Noise Guideline Values/BS8233 "good" conditions given below:

- Dwellings indoors in daytime: 35 dB LAeq,16 hours
- Outdoor living area in day time: 55 dB LAeq,16 hours
- Inside bedrooms at night-time: 30 dB LAeq,8 hours (45 dB LAmax)

- Outside bedrooms at night-time: 45 dB LAeq,8 hours (60 dB LAm_{ax})

Such detail and appropriate consequential noise mitigation measures as shall have been agreed, in writing, by the Local Planning Authority shall be implemented prior to occupation of ANY building on the site and shall be maintained as agreed thereafter.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of the future residents by reason of undue external noise where there is insufficient information within the submitted application.

16.ZGO - Food Premises (Control of Fumes and Odours)

Prior to the first use of the development hereby permitted, control measures shall be installed in accordance with a scheme for the control of fumes, smells and odours that shall have been previously submitted to, and agreed in writing by, the Local Planning Authority. This scheme shall be in accordance with Colchester Borough Council's Guidance Note for Odour Extraction and Control Systems. Such control measures as shall have been agreed shall thereafter be retained and maintained to the agreed specification and working order.

Reason: To ensure that there is a scheme for the control of fumes and odours in place so as to avoid unnecessary detrimental impacts on the surrounding area and/or neighbouring properties, as there is insufficient detail within the submitted application.

17.ZHA - Grease Traps Required

Prior to the first use of the development hereby permitted, any foul water drains serving the kitchen shall be fitted with grease traps that shall at all times thereafter be retained and maintained in good working order in accordance with the manufacturer's instructions.

Reason: To prevent unnecessary pollution of the groundwater environment quality in the area and/or blocking of the drainage system.

18.ZGR - *Light Pollution for Minor Development*

Any lighting of the development (including resultant sky glow, light trespass, source intensity and building luminance) shall fully comply with the figures and advice specified in the CBC External Artificial Lighting Planning Guidance Note for zone EZ2 RURAL, SMALL VILLAGE OR DARK URBAN AREAS.

Reason: In order to safeguard the amenity of the surrounding area by preventing the undesirable, disruptive and disturbing effects of light pollution.

19. ZGS - External Light Fixtures TBA

No external lighting fixtures shall be constructed, installed or illuminated until details of all external lighting proposals have been submitted to and approved, in writing, by the Local Planning Authority. Thereafter, no lighting shall be constructed or installed other than in accordance with those approved details.

Reason: To reduce the risks of any undesirable effects of light pollution.

20. Non-standard condition – Submission of Remediation Scheme

In accordance with the previously submitted Idom Merebrook Geo-environmental Assessment, Hythe Mills, Hawkins Rd, Ref. GEA-20653-17-193REVA, dated 21/06/17, no works shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared and then submitted to and agreed, in writing, by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

21. ZGZ - Contaminated Land Part 3 of 4 (Implementation of Approved Remediation Scheme)

No works shall take place other than that required to carry out remediation, the approved remediation scheme must be carried out in accordance with the details approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification/validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22. Non-standard condition – reporting of unexpected contamination

In the event that any unexpected contamination is found at any time when carrying out works in relation to the development, it must be reported in writing immediately to the Local Planning Authority and all development shall cease immediately. Development shall not re-commence until such times as an investigation and risk assessment has been submitted to and approved in writing by the Local Planning Authority, and where remediation is necessary, a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Development shall only re-commence thereafter following completion of measures identified in the approved remediation scheme, and the submission to and approval in writing of a verification report. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and the Essex Contaminated

Land Consortium's 'Land Affected by Contamination: Technical Guidance for Applicants and Developers'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23.ZG3 - *Validation Certificate*

Prior to the first OCCUPATION/USE of the development, the developer shall submit to the Local Planning Authority a signed certificate to confirm that the remediation works have been completed in accordance with the documents and plans detailed in Condition 23.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24.Non-standard condition – Traffic Management Plan

Prior to commencement of the development a construction traffic management plan, to include but shall not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed plan.

Reason: To protect highway efficiency of movement in the interests of highway safety.

25. Non-standard condition – Highway works

No occupation of the development shall take place until the following have been provided or completed:

- a) Improvements to the existing site access which shall include but limited to a minimum 43 x 2.4 x 43 metre visibility splay
- b) A minimum 4 metre wide riverside footpath/cycleway between the adjacent former Ballantyne Centre site and the Colne Causeway toucan crossing.

Reason: To protect highway efficiency of movement in the interests of highway safety and to ensure the proposal site is accessible by more sustainable modes of transport such as public transport, cycling and walking.

26.ZIN - *Protecting Public Rights of Way*

The public's rights and ease of passage over PUBLIC FOOTPATH number 127 shall be maintained free and unobstructed at all times.

Reason: To ensure the continued safe passage of the public on the definitive right of way and accessibility.

27.ZJB - Cycle Parking (as approved plan)

Prior to the first OCCUPATION/USE of the development, the bicycle parking facilities indicated on the approved plans shall be provided and made available for use. These facilities shall thereafter be retained as such.

Reason: To ensure that adequate provision is made for cycle parking in order to encourage and facilitate cycling as an alternative mode of transport and in the interests of both the environment and highway safety.

28.Non-standard condition – Archaeology

No works shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a Written Scheme of Investigation that has been submitted to and approved, in writing, by the Local Planning Authority. The Scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording.
- b. The programme for post investigation assessment.
- c. Provision to be made for analysis of the site investigation and recording.
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- e. Provision to be made for archive deposition of the analysis and records of the site investigation.
- f. Nomination of a competent person or persons/organisation to undertake the works.

The site investigation shall thereafter be completed prior to development, or in such other phased arrangement, as agreed, in writing, by the Local Planning Authority. The development shall not be occupied or brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any groundworks associated with the development scheme and to ensure the proper and timely investigation, recording, reporting and presentation of archaeological assets affected by this development, in accordance with Policy SD1 and ENV1 of Colchester Borough Council's Core Strategy (2008).

18.0 Informatives

- 18.1 The following informatives are also recommended:

(1) ZT0 – Advisory Note on Construction & Demolition

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

(2) ZTA - Informative on Conditions Stating Prior to Commencement/Occupation

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via www.colchester.gov.uk/planning or by using the application form entitled 'Application for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

(3) ZTB - Informative on Any Application With a Site Notice

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

(4) ZTC - Informative on Noise and Sound Insulation Competent Persons

PLEASE NOTE that, with regard to and noise measurement and sound insulation, a competent person is defined as 'someone who holds a recognised qualification in acoustics and/or can demonstrate relevant experience'.

(5) ZTG - Informative on Section 106 Agreements

PLEASE NOTE: This application is the subject of a Section 106 legal agreement and this decision should only be read in conjunction with this agreement.

(6) ZTM - Informative on Works affecting Highway Land

PLEASE NOTE: No works affecting the highway should be carried out without prior arrangement with, and to the requirements and satisfaction of, the Highways Authority. The applicant is advised to contact Essex County Council on 08456037631, or via email at development.management@essexhighways.org or by post to Essex Highways, Colchester Highways Depot, 653 The Crescent, Colchester, CO4 9YQ with regard to the necessary application and requirements.

(7) ZTX - Informative on Public Rights of Way

PLEASE NOTE: The applicant/developer is advised that the application site is, or appears to be, affected by the existence of a public right of way. It should be noted that:

(i) it is an offence to obstruct or divert a public right of way (or otherwise prevent free passage on it) without the proper authority having been first obtained. In the first instance contact should be made with the Public Rights of Way Office, Highways and Transportation Services, Essex County Council, County Hall, Chelmsford, Essex CM1 1QH. The telephone number is 01245 437563.

(ii) The granting of planning permission does not authorise the undertaking of any work on a public right of way. Where it is necessary for a right of way to be stopped-up or diverted in order that development may take place, no work may take place upon the line of the right of way until an appropriate order has been made and confirmed (see (i) above). The applicant/developer should note that there is a charge for making a change to the rights of way network.

(iii) Where a private means of access coincides with a public right of way, the granting of planning permission cannot authorise the erection of gates across the line or the carrying out of any works on the surface of the right of way and that permission for any changes to the surface must be sought from the highway authority (Essex County Council).